

**REMARKS**

Claims 1, 3-44 and 46-50 are pending in this application. By this Amendment, claims 1, 3, 4, 9, 27-29, 32, 43, 44 and 46-50 are amended; claim 45 is canceled. Support for the claim amendments can be found in the specification, for example, at paragraphs [007], [013], [014], [072]-[074] and [090]-[092]. No new matter is added.

To comply with the Examiner's request for information, Applicant submits a copy of the rejection provided by the French Patent Office in the French counterpart application no. 02-8614. The same reference, EP 1 216 658, already of record in the present U.S. application because it was provided by Applicant, was cited in the French application. Thus, Applicant fulfills the Requirement for Information under 37 C.F.R. 1.105. The independent claims of the French application correspond to original claims 9 and 43 and the combination of claims 29 and 30.

The Office Action rejects claims 1 and 3-50 under 35 U.S.C. §112, first paragraph. The Office Action alleges that there is insufficient description for the term "...of a person whose state is deemed..." Applicant respectfully submits that the specification sufficiently explains the meaning of "state" throughout the specification, including at paragraphs [013], [014], [074] and [091]. One skilled in the art would have understood the meaning of state to be the state of the skin or hair when the term is considered in light of the specification. However, in order to expedite allowance of the claims, Applicant amends the independent claims to recite "...of a person whose state of skin or hair is deemed..." Withdrawal of the rejection is requested.

The Office Action rejects claims 1, 3-8 and 46 under 35 U.S.C. §112, second paragraph. The Office Action alleges that the pronoun "that," which is recited at the end of each claim, is indefinite. Applicant amends the claims to remove "that." Withdrawal of the rejection is requested.

The Office Action rejects claims 1, 3-8 and 46 under 35 U.S.C. §112, second paragraph. The Office Action alleges that the term "a screen, at least one of" is indefinite. Applicant amends independent claims 1 and 46 to remove "at least one of." Withdrawal of the rejection is requested.

The Office Action: (1) rejects claims 1 and 3-8 under 35 U.S.C. §103(a) over Smith et al. (U.S. Patent No. 6,253,210) (Smith) in view of Bazin (EP 1 216 658); (2) rejects claims 9-15 and 17-50 under 35 U.S.C. §103(a) over Smith in view of Bazin and further in view of Kenet et al. (U.S. Patent No. 5,016,173) (Kenet); and (3) rejects claim 16 under 35 U.S.C. §103(a) over Smith in view of Bazin, further in view of Kenet<sup>1</sup> and still further in view of Chin et al. (U.S. Patent No. 4,998,972) (Chin). The rejections are respectfully traversed.

Smith fails to disclose or suggest a plurality of images corresponding to different grades of at least one characteristic of skin or hair typology being displayed on the screen and displaying a video sequence comprising images expressing only one degree of the characteristic, as recited by independent claim 1. A feature of claim 1 is that both images of different grades of at least one skin or hair characteristic and the images of the video sequence representing only one degree of the characteristic of skin or hair typology are displayed. Smith discloses composite data that is presented to a physician during surgery. See Smith, col. 7, lines 55-57. Smith discloses a system in which images are displayed on a screen, the images are of different views, for example, of the brain or the putamen. Smith fails to disclose or suggest displaying images of different grades and of a video sequence comprising images expressing at least one characteristic of skin or hair typology. Further, Smith fails to disclose or suggest a video sequence comprising of images expressing only one degree of the

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<sup>1</sup> Listed as Krusin in Office Action, it is assumed to refer to Kenet because claim 16 depends from claim 15, which is rejected in view of Kenet. However, Krusin (Gutkowicz-Krusin et al. U.S. Patent No. 6,208,749) will also be considered in responding to the Office Action.

hair or skin typology, as recited by independent claim 1. Thus, Smith fails to disclose or render obvious the combination of features recited by independent claim 1.

Bazin fails to overcome the deficiencies of Smith. Bazin discloses generating a sequence of images relating to characteristics of a body typology. However, "body typology" is defined by Bazin as including mechanical, morphological or physiological characteristics and color characteristics such as complexion or hair color. Thus, Bazin fails to disclose images of the brain, as disclosed by Smith. Consequently, Smith and Bazin are non-analogous art. One of ordinary skill in the art of imaging the brain would have no reason to consider a device for evaluating the nature of a person's skin or hair, and would have no reason to apply the teachings of Bazin to the device of Smith. Thus, one of ordinary skill would have had no reason to combine Smith and Bazin.

Moreover, the combination of Smith and Bazin fails to disclose all features of independent claim 1. Bazin discloses a sequence of photographs in paragraphs [0027] and [0028], which the Office Action associates with the plurality of images of claim 1. However, Bazin fails to disclose or suggest displaying a second sequence of images that would be associated with an image of the sequences of images disclosed in paragraphs [0027] and [0028]. Instead, Bazin discloses that once an image is selected among the sequence of images, diagnosis and recommendation of a product occurs. See paragraphs [0132]-[0134]. Thus, Bazin fails to disclose or suggest a second sequence of images that would correspond to the claimed video sequence associated with at least one of the plurality of images. Thus, Bazin fails to disclose or suggest a video sequence comprising images expressing only one degree of the characteristic, as recited by independent claim 1.

Bazin discloses generating a video sequence, but the video sequence is disclosed as comprising many intermediate degrees of a characteristic of body typology. See Bazin, paragraphs [0025] and [0079]. Bazin discloses that this video sequence of many intermediate

degrees enables one to identify within the sequence at least one image corresponding to the actual or desired degree of the characteristic. See Bazin, paragraph [0021]. Thus, to achieve this aspect, Bazin discloses that the start and end images of the sequence are the extreme degrees of the characteristic. Therefore, Bazin is not disclosing or suggesting a video sequence comprising only one degree of the characteristic, as recited by independent claim 1.

Thus, Bazin fails to cure the deficiencies of Smith, and therefore, claim 1 is patentable over the combination of Bazin and Smith.

Independent claims 9, 29, 32, 43 and 46-50 each recite features similar to those of claim 1 discussed above. Kenet fails to disclose or suggest a video sequence comprising images expressing only one degree of the characteristic, as recited by claims 1, 9, 29, 32, 43 and 46-50. Thus, Kenet fails to cure the deficiencies of Bazin and Smith. Furthermore, Chin and Krusin fail to cure this deficiency, and therefore, independent claims 1, 9, 29, 32, 43 and 46-50 are patentable over the applied references. Claims 3-8, 10-28, 30, 31, 33-42 and 44 depend from claims 1, 9, 29, 32 and 43, respectively. Thus, claims 3-8, 10-28, 30, 31, 33-42 and 44 also are patentable over the applied references for at least the same reasons, as well as for the additional features they recite.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of all pending claims are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,  
  
William P. Berridge  
Registration No. 30,024

Mario A. Costantino  
Registration No. 33,565

WPB:MAC/mem

Attachment:

Copy of rejection of French counterpart application

Date: April 10, 2008

**OLIFF & BERRIDGE, PLC**  
**P.O. Box 320850**  
**Alexandria, Virginia 22320-4850**  
**Telephone: (703) 836-6400**

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Affaire suivie par : Emilie ROLLET  
Téléphone : 01.53.04.46.71  
Télécopie : 01.53.04.52.29

NONY & ASSOCIES  
3, Rue de Penthièvre

75008 PARIS

OBJET : Demande de brevet d'invention n° 02 08614

PARIS, le 3 mars 2008

Absence manifeste de nouveauté  
art. L.611-11, L.612-12.7<sup>e</sup> et R.612-51 du code de la propriété intellectuelle

MISE EN DEMEURE

J'ai l'honneur de vous faire connaître que l'absence de nouveauté des revendications n° 1, 4, 11, 14, 15, 16, 17, 18, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 résulte manifestement du rapport de recherche.

En effet, le dispositif de la revendication 1 se retrouve dans le document d'antériorité EP1216658 A1 publié le 26 juin 2002, qui décrit un procédé permettant de déterminer le degré effectif et/ou souhaité d'une caractéristique de la typologie corporelle d'un individu (paragraphe [0021]) et le dispositif associé comportant une unité programmée pour générer une séquence d'images exprimant différentes gradations d'une caractéristique de la typologie corporelle (paragraphe [0082]). Le dispositif décrit dans ce document met en œuvre un support numérique de stockage d'une séquence d'images correspondants aux différents degré de la caractéristique de la typologie corporelle (paragraphes [0022] à [0025]). Il peut notamment comporter :

- des moyens tels qu'une caméra ou un scanner ou un appareil photo numérique pour acquérir une image de personne à évaluer (paragraphes [0092] et [0124])
- un système informatique tel qu'un réseau de neurones ou un autre dispositif d'intelligence artificielle pour comparer cette image avec les images de la séquence (paragraphe [0092] et [0126])
- un écran sur lequel un programme peut provoquer l'affichage à la fois d'une image de la séquence de l'image 1 de la personne, afin de faciliter la comparaison.

Le document d'antériorité EP1216658 mentionne également que les séquence d'images exprimant différentes gradations d'une caractéristique de la typologie corporelle peuvent être construites à partir de sous-séquences, ces sous-séquences étant constituées d'une image de départ d'ordre n et d'une image d'arrivée d'ordre n-1, les images de départ et/ou d'arrivée des sous-séquences d'ordre n et n-1 exprimant au moins un même caractère de la typologie corporelle (paragraphe [0172] à [0174]).

Les caractéristiques additionnelles des revendications 4, 11, 14, 15, 16, 18, 20, 21, 22, 23, 27, 28, 29, 30, 31, 32, 33 et 35 se retrouvent également dans le document d'antériorité EP1216658

Siège  
26bis, rue de Saint-Pétersbourg  
75800 PARIS Cedex 08  
Téléphone : 0 820 213 213  
Télécopie : 33 (0)1 53 04 45 23  
[www.inpi.fr](http://www.inpi.fr) - [contact@inpi.fr](mailto:contact@inpi.fr)  
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A1 dans les paragraphes [0098], [0092], [0109], [0036] à [0039], [0110], [0131], [0084] et [0085], [0027] et [0162].

Les revendications en question sont donc susceptibles d'être rejetées par application de l'article L.612-12.7° du code de la propriété intellectuelle.

En conséquence je me vois contraint, conformément aux termes de l'article R.612-51 du code précité, de vous mettre en demeure de modifier la demande de brevet citée en référence afin d'échapper aux antériorités citées.

Au cas où vous ne déféreriez pas à la présente mise en demeure dans le délai imparti de deux mois à compter de la date de réception de la présente notification, ces revendications seraient rejetées.

Pour le Directeur général de l'Institut national de la propriété industrielle

L'ingénieur examinateur



Thierry FAVRE-FELIX